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module and between second reference structure of the carriage and the edge of the at least one module.

REMARKS

This Amendment and Response amends claims 1, 2, 10, 16 and 19. Claims 1-20 are pending in this application. It is believed that no fees are due; however, the Patent Office is authorized to debit deposit account 11-0855 if it determines otherwise.

I. 35 U.S.C. §102 Rejections

A. Baltes

The Action rejects claims 1-4 under 35 U.S.C. §102 as being anticipated by EP Patent No. 0297684 A1 to Baltes. Applicant respectfully traverses these rejections and asks that they be withdrawn.

Independent claims 1 and 2 have been amended to recite an apparatus that includes an energy source adapted to transfer heat to the textile face of a floorcovering in an amount sufficient to melt a portion of the textile face and thereby alter the appearance of the textile face of the floorcovering. Use of the apparatus results in melting portions of the textile face of the floorcovering which in turn results in the appearance of grouted lines on the floorcovering. Thus, the apparatus can be used to impart a grouted appearance to the floorcovering.

Baltes is totally unrelated to, and incapable of serving, this purpose. Baltes discloses a tool for forming groves in elastic floor covering material, such as linoleum or PVC, so that a welding wire can be run in the groove. The tool includes a gouge 4 (fixed in movable carrier 1) that penetrates the floor covering material and cuts a groove from the material as the carrier is moved along the floor. Baltes discloses a heating apparatus 10 provided on the carrier 1 that is

used to soften the floor covering material so that the gouge 4 can more easily cut through the floor covering material.

To begin, Baltes is devoid of any teaching or suggestion that its device is suited or adapted for use on textile face floorcovering. Rather, Baltes only discloses use of its device on elastic (PVC or linoleum) flooring surfaces. Baltes fails to anticipate claims 1 and 2 for at least this reason.

Nor would it be obvious to one of skill in the art to use the Baltes device on a textile face flooring surface. To begin, Baltes in nonanalogous art. As explained above, Baltes is directed to carving grooves into elastic flooring so that a wire can be inserted in the groove. Baltes is totally unrelated to installation of textile face floorcovering and alteration of the appearance of textile face floorcovering. Thus, one of skill in the art desiring to install carpet textile floorcovering would not know or be motivated to look in the wire installation art.

Moreover, the subject matter recited in claims 1 and 2 is not directed to carving grooves in the textile face of the floorcovering, only melting portions of the textile face to impart a grouted appearance to the floorcovering. Thus, no motivation exists to use the Baltes device (which carves grooves) on such textile face surfaces. Moreover, even assuming, *arguendo*, that such motivation existed, the elastic surfaces for which the Baltes device is intended for use are relatively smooth and thus the surfaces provide little resistance to movement of the gouge. In contrast, textile face surfaces are relatively rough and thus the fibers would resist movement of the gouge across those surfaces, resulting in tearing and damage to the fiber face. Thus, the Baltes tool would never be used on textile face floorcovering because doing so would ruin the

textile face surfaces. For at least these reasons, Baltes fails to render obvious claims 1 and 2 and these claims are allowable.

Moreover, Baltes fails to teach an energy source that is adapted to transfer heat to a surface (much less a textile face surface) in an amount sufficient to alter the appearance of the surface. Rather, Baltes only teaches a hot-air apparatus 10, such as "a commercially obtainable hair dryer" (col. 2, lines 3-5) that is used to soften elastic material to facilitate cutting by the gouge. While apparatus 10 may soften the elastic floor, it does not, in and of itself, alter the appearance of the elastic flooring surface. Rather, the elastic floor after heating, while a bit softer, still appears the same.

Moreover, there is no teaching or suggestion in Baltes that apparatus 10 would function successfully to alter the appearance of a textile face floorcovering. Rather, apparatus 10 is meant only to soften an elastic floor. Baltes discloses use of a commercial hairdryer (which does not exude much heat) and makes clear that a thermostat can be used to avoid overheating. Col. 2, lines 10-12. Thus, while apparatus 10 does exude heat, it is only enough to soften elastic flooring. Baltes even cautions against applying too much heat. Nothing in Baltes demonstrates to one of skill in the art that its device would serve to alter the appearance of a textile face without undue experimentation. For these additional reasons, Baltes thus fails to anticipate or render obvious amended claims 1 and 2, as well as claims 3 and 4 that depend from claim 2.

B. Hubbard

The Action rejects claims 1-15 under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 5,935,357 to Hubbard et al. Applicant respectfully traverses these rejections and asks that they be withdrawn.

Independent claims 1, 2, and 10 have been amended to recite an apparatus that includes an energy source (claims 1 and 2) or hot air gun (claim 10) adapted to transfer heat to the textile face of a floorcovering in an amount sufficient to melt a portion of the textile face and thereby alter the appearance of the textile face of the floorcovering. Use of the apparatus results in melting portions of the textile face of the floorcovering which in turn results in the appearance of grouted lines on the floorcovering. Thus, the apparatus can be used to impart a grouted appearance to the floorcovering.

Hubbard is totally unrelated to, and incapable of serving, this purpose. Hubbard discloses a welding tool, that includes hot air welder 20, for welding together polymeric roofing membranes. Hubbard is devoid of any teaching or suggestion that its device is suited or adapted for use on textile face floorcovering. Rather, Hubbard only discloses use of its device on polymeric roofing membranes. Hubbard fails to anticipate claims 1, 2, and 10 for at least this reason.

Nor would it be obvious to one of skill in the art to use the Hubbard device on a textile face flooring surface. To begin, Hubbard in nonanalogous art. As explained above, Hubbard is directed to welding roofing membranes and totally unrelated to installation of textile face floorcovering and alteration of the appearance of textile face floorcovering. Thus, one of skill in the art desiring to install carpet textile floorcovering would not know or be motivated to look to roof membrane welding technology for guidance.

Moreover, Hubbard fails to teach an energy source that is adapted to transfer heat to a surface (much less a textile face surface) in an amount sufficient to alter the appearance of the surface. Rather, Hubbard teaches heat sealing two membranes 12, 14, one overlapping the other.

As shown in Figure 19, nozzle 40 of the hot air welder 20 is inserted between the membranes 12, 14 at the overlap to weld the two membranes together (the top of membrane 12 is welded to the bottom of membrane 14). Any melting that is occurring is between the membranes 12 and 14, and therefore, the Hubbard does not teach an apparatus for altering the appearance of the roofing membranes. Rather, the roofing membranes appear the same after welding.

Moreover, there is no teaching or suggestion in Hubbard that hot air welder 20 would function successfully to alter the appearance of a textile face floorcovering. Rather, welder 20 is shown only as welding plastic roofing membranes together. Thus, while welder 20 does exude heat, nothing in Hubbard demonstrates to one of skill in the art that its device could successfully alter the appearance of a textile face without undue experimentation. For these additional reasons, Hubbard fails to anticipate or render obvious claims 1, 2, and 10, and these claims are allowable, as are claims 3-9 and 15 and claims 11-14, which ultimately depend from allowable claims 2 and 10, respectively.

Moreover, claim 8 recites an adjustable frame to vary the position of the heat source relative to the floor covering. Hubbard fails to disclose a frame that allows adjustment of the position of the heat source relative to the roofing membrane. In Hubbard, the hot air welder 20 is mounted on chassis 22. However, Hubbard provides no means for adjusting the position of the chassis 22 to reposition the hot air welder 20 closer to, or further from, the underlying roofing membranes. Nothing in Hubbard teaches or suggests varying the position of the hot air welder relative to the roofing membrane. Claim 8 is allowable for this additional reason.

Claim 9 recites a heat source holder adjustably attached to a frame stanchion so that the holder (to which the heat source is attached) can be positioned in a plurality of distances from the

floor covering. As explained above, nothing in Hubbard teaches or suggests a structure to which the heat source is attached that can be positioned a plurality of distances from the floor covering and thereby adjust the position of the heat source relative to the floor covering. Claim 9 is allowable for this additional reason. Similarly, claim 10 recites an apparatus whereby the distance of the hot air gun from the textile face of the floor covering is adjustable and is allowable for this additional reason as well.

II. 35 U.S.C. §103 Rejections

The Action rejects claims 16-20 under 35 U.S.C. §103 as being unpatentable over Japanese Patent XP002137953 (JP 59155218A) in view of EP Patent No. 0297684 A1 to Baltes. Applicant's Assignee respectfully traverses these rejections and asks that they be withdrawn.

Independent claims 16 and 19 have been amended to recite a method that includes positioning adjacent a textile face floorcovering a hot air gun that is adapted to transfer heat to the textile face of the floorcovering in an amount sufficient to melt a portion of the textile face and thereby change the appearance of the textile face of the floorcovering and moving this gun across the textile face of the floorcovering. The Action acknowledges that the Japanese reference fails to teach the recited hot air gun, but relies upon the teachings of Baltes to supply this missing element. Action, ¶ 6.

Baltes discloses a tool for forming groves in elastic floor covering material, such as linoleum or PVC, so that a welding wire can be run in the groove. Such a reference is simply not an analogous field of art to altering the appearance of textile face floorcoverings. The standard for determining whether a reference is analogous is whether the art is "reasonably pertinent to the problem with which the inventor is concerned." *In re Gorman*, 933 F.2d 982, 986 (Fed. Cir.

1991). *See also In re Deminski*, 796 F.2d 436, 441-42 (Fed. Cir. 1986). Wire installation in linoleum floors technology is unrelated to the problems involved in installing and altering the appearance of textile face floorcovering. Therefore, it would not have been obvious for someone addressing textile face floorcovering installation and appearance alteration to have consulted technology related to wire installation in linoleum floors.

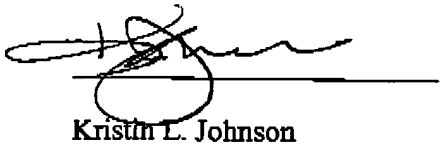
Moreover, "[w]hen it is necessary to select elements of various teachings in order to form the claimed invention, [one must] ascertain whether there is any suggestion or motivation in the prior art to make the selection made by the applicant." *In re Gorman*, 933 F.2d at 986. If no teaching or suggestion of the combination exists in the references, such a combination is not obvious. As explained *supra* Part I.A, Baltes fails to teach or suggest use of its device on textile face floorcoverings nor would such use be obvious given that it could be damaging to the textile face. Thus, no motivation exists to combine the teachings of Baltes with the Japanese reference.

Furthermore, a prima facie case of obviousness requires that the prior art references teach or suggest all of the claim limitations. As explained above, Baltes does not teach or suggest a hot air gun adapted to transfer heat to the textile face of the floorcovering in an amount sufficient to melt a portion of the textile face and thereby change the appearance of the textile face of the floorcovering, as recited in claims 16 and 19. Thus, combination of Baltes and the Japanese reference (which Applicant's Assignee believes improper) fails to result in the subject matter recited in these claims and thus fails to render claims 16 and 19 obvious. Claims 16 and 19 are therefore allowable, as are claims 17-18 and 20, which ultimately depend from allowable claims 16 and 19, respectively.

CONCLUSION

Applicants respectfully submit that claims 1-20 are in condition for immediate allowance, and request early notification to that effect. If any issues remain to be resolved, the Examiner is respectfully requested to contact the undersigned at 404.815.6389.

Respectfully submitted,



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AMENDMENT AND RESPONSE TO OFFICE ACTION
Applicant: William G. Noles
U.S. Patent Application No. 09/766,754

Marked-up copy of amended claims pursuant to 37 C.F.R. §1.21(c)

1. (Twice Amended) Apparatus for treating floor covering, comprising:

(a) an energy source adapted to transfer heat to the textile face of the floorcovering in an amount sufficient to melt a portion of the textile face and thereby alter the appearance of the textile face of the floorcovering, and

(b) structure for supporting the energy source and contacting the [a] textile face of the floor covering while moving the energy source and floor covering relative to each other in a predetermined relationship during treatment of the textile face of the floor covering with the energy source.

2. (Twice Amended) Apparatus for use during installation of floor covering for treating a portion of a textile face of the floor covering proximate an edge of the floor covering to change the appearance of the treated portion of the textile face of the floor covering, the apparatus comprising:

(a) a heat source adapted to transfer heat to the textile face of the floorcovering in an amount sufficient to melt a portion of the textile face and thereby alter the appearance of the textile face of the floorcovering,

(b) structure on which the heat source is mounted for maintaining a desired relationship between the heat source and the floor covering during treatment of the textile face of the floor covering.

10. (Twice Amended) Apparatus for treating a portion of a textile face of floor covering proximate an edge of the floor covering to change the appearance of the treated portion of the textile face of the floor covering by heating, the apparatus comprising:

(a) a base,

(b) a plurality of rollers attached to the base for contact with the textile face of the floor covering during use of the apparatus,

(c) two guide arms projecting from the base, each by a projection amount, and two guide bearings for contact with an edge of the floor covering during use of the apparatus, one of which guide bearings is attached to each guide arm, and

(d) a hot air gun adapted to transfer heat to the treated portion of the textile face in an amount sufficient to melt the treated portion of the textile face and thereby alter the appearance of the treated portion of the textile face, wherein the hot air gun is attached to a hot air gun mount adjustably attached to the base so that the distance of the hot air gun from the textile face of the floor covering during use of the apparatus may be adjusted.

16. (Twice Amended) A method for changing the appearance of a portion of a textile face of floor covering during installation of the floor covering, comprising:

(a) positioning a hot air gun adapted to transfer heat to the textile face of the floorcovering in an amount sufficient to melt a portion of the textile face and thereby alter the appearance of the textile face of the floorcovering, wherein the hot air gun is mounted on a carriage proximate an edge of the floor covering,

(b) with the hot air gun on, moving the hot air gun across the textile face of the floor covering along the edge to heat the portion of the textile face of the floor covering adjacent to the edge to change the appearance of the portion while maintaining contact between first reference structure of the carriage and the textile face of the floor covering and between second reference structure of the carriage and the edge of the floor covering.

19. (Twice Amended) A method of installing floor covering modules having textile faces and having a "grouted edge" appearance on a floor, comprising:

(a) installing on the floor modules that can be positioned thereon without cutting the modules,

(b) cutting at least one module in the field to a size necessary to fill a position on the floor not covered by the un-cut modules and thereby complete covering of the floor after installation of the un-cut modules, and

(c) positioning a hot air gun adapted to transfer heat to the textile face of the floorcovering in an amount sufficient to melt a portion of the textile face and thereby alter the appearance of the textile face of the floorcovering, wherein the hot air gun is mounted on a carriage proximate an edge of at least one module where a "grouted edge" appearance is desired, and, with the hot air gun on, moving the hot air gun across a portion of the textile face adjacent the edge of the at least one module to heat the portion of the textile face of the at least one module adjacent to the edge and to change the appearance of the portion while maintaining contact between first reference structure of the carriage and the textile face of the at least one

module and between second reference structure of the carriage and the edge of the at least one module.